

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BRIENNE SPLITTGERBER, ) Case No. 8:17-cv-280

Plaintiff, )

vs. )

THE STATE OF NEBRASKA, )  
THE NEBRASKA STATE PATROL, )  
DR. STEPHEN HAUDRICH, an )  
individual, BRADLEY RICE, )  
an individual, DAVID )  
SANKEY, an individual, )  
JOHN AND JANE DOES, )  
individuals, )

Defendants. )

DEPOSITION OF  
BRADLEY RICE  
TAKEN ON BEHALF OF  
PLAINTIFF

Taken at the law offices of Anderson, Creager &  
Wittstruck, PC, LLO, 1630 K Street, Lincoln,  
Nebraska, on **September 10, 2018**,  
commencing at 9:01 a.m.



## A P P E A R A N C E S

For the Plaintiff: **MR. THOMAS M. WHITE**  
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For Defendants State of **MS. JESSICA M. FORCH**  
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For Defendant Haudrich: **MR. DAVID D. ERNST**  
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For Defendant Rice: **MR. ROBERT B. CREAGER**  
ANDERSON, CREAGER &  
WITTSTRUCK, PC, LLO  
1630 K Street  
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Also Present: **Ms. Mary Jo Gunnels**

## I N D E X

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WITNESS:**Bradley Rice**

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S T I P U L A T I O N S

It is stipulated and agreed by and between the parties hereto:

1. That the deposition of Bradley Rice may be taken before Marcy Benge, RMR, General Notary Public, at the time and place set forth on the title page hereof.

2. That the deposition is taken pursuant to notice.

3. That the original deposition will be delivered to Mr. Thomas M. White, Attorney for Plaintiff.

4. That all objections except as to form and foundation are reserved until time of trial.

5. That the testimony of the witness may be transcribed outside the presence of the witness.

6. That the signature of the witness to the transcribed copy of the deposition is waived.

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BRADLEY RICE,

of lawful age, being first duly  
cautioned and solemnly sworn as  
hereinafter certified, was examined  
and testified as follows:

(Witness's response to oath: "Yes, ma'am.")

MR. WHITE: We are off the record for a  
moment.

(At this time an off-the-record  
discussion was had.)

DIRECT EXAMINATION

BY MR. WHITE:

Q. Please state your name.

A. Bradley D. Rice, R-i-c-e.

Q. And, Mr. Rice, can you tell me, at one  
time were you employed by the State of Nebraska?

A. Yes, sir.

Q. And what position or positions did you  
hold while working at the State of Nebraska?

A. From the beginning?

Q. Roughly, yeah.

A. I was sworn as a trooper in 1981, retired  
as a captain in the end of 2011, I think. I'd have  
to think about that. And then appointed as the  
superintendent in '15. And dismissed as the  
superintendent last year, in '17.

1           Q.       Now, Mr. Rice, did you become aware of a  
2       claim made by a Trooper Splittgerber regarding the  
3       nature of medical examinations that were being  
4       required of women as a precondition to employment in  
5       the state patrol?

6           A.       Yes.

7           Q.       Prior to Ms. Splittgerber's concerns, had  
8       you ever heard of any complaints about the nature of  
9       the physical examinations required in order to -- for  
10      a woman to become a state patrol officer?

11          A.       No.

12          Q.       Doctor -- the doctor that performed this  
13      examination required of women like Trooper  
14      Splittgerber to engage in a series of, I guess,  
15      postures or movements that required the display of  
16      their genitalia and their anus. Did you -- were you  
17      aware of that prior to Trooper Splittgerber's  
18      examination?

19          A.       No.

20          Q.       So you didn't know that these things were  
21      being required by at least some physicians employed  
22      by the state patrol of women candidates?

23          A.       No.

24          Q.       You did not know?

25          A.       No.

1           Q.       Okay. I just want to make sure we don't  
2       have a double negative going. Were you aware of that  
3       procedure? Yes or no.

4           A.       Are you asking me when? If I was aware  
5       before I spoke to Brienne?

6           Q.       Yes.

7           A.       No.

8           Q.       Now, the state patrol has a form  
9       requiring candidates to not only submit to a physical  
10      examination, but to have various areas of physical  
11      concern checked. Are you aware of that?

12          A.       Yes.

13          Q.       Prior to Trooper Splittgerber's  
14      complaints, were you aware of the nature of the form?

15          A.       No.

16          Q.       Can you tell me, sir, who would have  
17      prepared that form stating what would be required of  
18      a trooper candidate?

19                 MR. CREAGER: Just object to form only as  
20      to the timeline, because when he was  
21      superintendent --

22                 MR. WHITE: Fair enough.

23                 MR. CREAGER: -- is different from when  
24      she --

25                 MR. WHITE: Right.

1           Q.       (By Mr. White) At any time during your  
2 employment in the state patrol, did you ever become  
3 aware of who would create the checklist for a  
4 physical examination of a trooper candidate?

5           A.       I'm trying not to make it difficult. Ask  
6 me your question again.

7           Q.       Sure. Any time you have a problem with  
8 my questions, Mr. Rice, you just tell me that.  
9 That's not being difficult. That's being precise,  
10 and it's appreciated.

11                   All right. Had you ever examined the  
12 form that the state patrol required candidates to  
13 fill out as part of their preemployment physical  
14 prior to Trooper Splittgerber's complaints?

15          A.       No.

16          Q.       Did you have to pro- -- fill out a form  
17 like that when you were a candidate, do you know?

18          A.       Yes.

19          Q.       Was it the same form, to your  
20 recollection, as the one that Splitt- -- Trooper  
21 Splittgerber filled out?

22          A.       No.

23          Q.       Okay. How was it different, to the  
24 extent you can remember, sir?

25          A.       My form wasn't as long. You know, that's



1 40 years ago.

2 Q. Sure.

3 A. And I can't tell you what was on it. I  
4 just know there was a form, asked some questions. I  
5 don't even know what those questions are now.

6 Q. Okay. Do you recall in your examination  
7 whether the physician made you open up your buttocks  
8 and display your anus?

9 A. Yes.

10 Q. They -- he did make you display your anus  
11 when you were being examined 40 years ago?

12 A. Yes.

13 Q. Did the physician, he or she, tell you  
14 the purpose of that?

15 A. No.

16 Q. Okay. They just said, "Lift your  
17 buttocks up"?

18 A. Well, I don't -- I don't -- I don't  
19 recall what they exactly said. But it was a male  
20 physical.

21 Q. Okay. And was it a male physician  
22 performing this?

23 A. Yes.

24 Q. Now, as the colonel in charge, when you  
25 were in charge of the patrol, was it ever an

1 intention that you formed that female candidates  
2 would have to remove their pants and underwear, lay  
3 on their back on an exam table, put their legs, feet  
4 together, pull them up to their buttocks, and then  
5 open their knees to display their genitalia?

6 MR. ERNST: Object to the form.

7 MR. CREAGER: Yeah. Me, too.

8 Q. (By Mr. White) You can go ahead and  
9 answer.

10 A. Okay. Re- -- there was a key part of  
11 your question at the beginning. Would you repeat the  
12 beginning of your question?

13 MR. WHITE: Would you please read back  
14 the question?

15 THE COURT REPORTER: Sure.

16 (The requested portion of the record  
17 was repeated.)

18 A. Explain to me what you mean by an  
19 intention that I formed.

20 Q. (By Mr. White) Okay. Did you instruct  
21 physicians that that procedure was necessary for a  
22 female to pass or intend to require that as a  
23 necessary examination technique required for females  
24 to pass the physical and become candidates to become  
25 state troopers? Did you endorse the technique?

1 MR. ERNST: Object to the form.

2 MR. CREAGER: Yeah. And just -- I object  
3 to the form and foundation, because it assumes that  
4 he had anything to do with the -- the form.

5 MR. WHITE: No. If he didn't, Bob, it  
6 doesn't. Because if he didn't form the intention --

7 MR. CREAGER: Okay. I'll just make my  
8 objection.

9 MR. WHITE: If he didn't form the  
10 intention, then of course he had nothing to do with  
11 it. Then the answer is no.

12 MR. CREAGER: Okay. Well, I get that,  
13 but -- all right. Just note my objection. You can  
14 answer if you understand the question.

15 A. The question as I understand it is no.

16 Q. (By Mr. White) Okay. No, you didn't  
17 have any personal determinations on how these  
18 examinations should be conducted; is that correct?

19 A. That's correct.

20 Q. All right. Did you at any time while you  
21 were the colonel take the Nebraska State Patrol form  
22 and run it by doctors to see what would be  
23 appropriate examinations to qualify candidates for  
24 becoming troopers?

25 A. No.

1           Q.       Why not?

2           A.       I -- I instructed -- I instructed staff  
3 to go over the form and make sure every -- everything  
4 on the form was absolutely necessary.

5                   MR. CREAGER: I'm -- just for -- I'm  
6 going to just make a foundational objection, because  
7 you guys are on different timelines and I can hear  
8 where this is going. He's answered the question, but  
9 please establish when this is happening. Because --

10                  MR. WHITE: I asked him -- read the  
11 question back. I think -- let me help you out, Bob.  
12 I said when he was a colonel. Please read the  
13 question back.

14                  MR. CREAGER: Well, that got lost in the  
15 next question.

16                  MR. WHITE: Please read it back.

17                  MR. CREAGER: Listen to the question,  
18 will you?

19                           (The requested portion of the record  
20 was repeated.)

21                  MR. CREAGER: He said no. And the next  
22 question was?

23                           (The requested portion of the record  
24 was repeated.)

25                  MR. WHITE: I have a phonographic memory,

1 Bob. I'm just telling you. I truly do.

2 MR. CREAGER: I have a phonographic  
3 memory.

4 MR. WHITE: Phonographic.

5 MR. CREAGER: I know songs and music. So  
6 listen carefully to the question.

7 Q. (By Mr. White) Why not?

8 A. Why didn't I do that?

9 Q. Yeah.

10 A. I had staff that do that.

11 Q. Okay. Who did you ask to do that?

12 A. In a -- in a staff meeting, I asked  
13 attorney -- the state patrol attorney, Wendy Wussow,  
14 and HR director, Jerry Lee Jensen.

15 Q. Was that before or after Trooper  
16 Splittgerber's complaints?

17 A. After.

18 Q. And did you receive any reports from them  
19 after you asked --

20 A. Yes.

21 Q. -- those questions? And what did the  
22 reports state?

23 A. I -- I received verbal briefings. I  
24 don't recall any written reports.

25 Q. Okay. What were the verbal briefings?

1           A.       The verbal briefings were that the -- the  
2       physician, Dr. Haudrich, was following the  
3       requirements set forth in PSAC standards.

4           Q.       Did you see anywhere in the documents  
5       where it said that a visual inspection of the female  
6       genitalia was required?

7                   MR. ERNST: Object on foundation.

8                   MR. CREAGER: Same.

9                   MR. WHITE: Simple question. I asked him  
10      if he saw, David.

11          A.       No.

12          Q.       (By Mr. White) Okay. Do you recall  
13      seeing that there was a question regarding urinary  
14      tract infections?

15          A.       No, I don't.

16          Q.       Okay. Who made the verbal reports to you  
17      that Dr. Haudrich was following what was required?

18          A.       Both attorney Wendy Wussow and HR  
19      director Jerry Lee Jensen.

20          Q.       Did they describe to you what they did to  
21      check on that?

22          A.       Attorney Wendy Wussow told me she -- I  
23      instructed her to do research, to research what  
24      was -- what we were asking them to do, what was being  
25      required of us to do. And her report back to me was

1       that the procedures that Dr. Haudrich were -- were  
2       using -- and I don't know if that's the right word or  
3       not. Procedure, examination. I'm just laymen's  
4       terms. Were -- were following the guidelines as set  
5       forth by PSAC.

6               And Jerry Lee Jensen had sent one of her  
7       personnel down to speak with folks at Dr. Haudrich's  
8       office to check on what they were doing, and the  
9       report that came back from them was -- from her  
10      department was that they were using techniques,  
11      procedures -- whatever the term is, I don't know for  
12      sure -- that would accomplish the requirements for  
13      PSAC.

14             **Q.**     Did, to your knowledge, anyone on your  
15      behalf while investigating this check out the  
16      techniques with other physicians other than  
17      Concentra, Dr. Haudrich's employer, about whether the  
18      procedures being employed were, in fact, appropriate?

19             **A.**     I don't know.

20             **Q.**     Did you personally ask any women you  
21      might know whether they had ever encountered an  
22      examination of the type performed by Dr. Haudrich on  
23      Trooper Splittgerber?

24             **A.**     No.

25             **Q.**     Did you personally talk to any physicians

1 to see whether or not the procedures employed by  
2 Dr. Haudrich were of the type that should be  
3 performed in the course of such an examination?

4 A. No.

5 Q. Did you ever ask any physicians to speak  
6 to Trooper Splittgerber about how the actual  
7 examination was performed in order to evaluate its  
8 necessity?

9 A. No.

10 Q. How did you learn of Trooper  
11 Splittgerber's concerns regarding the nature of the  
12 physical examination?

13 A. In a -- in a meeting she -- that she  
14 asked for with me, she told me.

15 Q. Okay. Do you know whether Trooper  
16 Splittgerber prior to that meeting had raised  
17 concerns with other officers in the state troop- --  
18 among the state troopers?

19 A. Yes.

20 Q. Who had she raised, to your knowledge,  
21 those concerns with?

22 A. Through her chain of command at the --  
23 when she was attending the academy.

24 Q. And who was in that chain of command, to  
25 the best of your knowledge?



1           A.       I -- I know Captain Williams was in  
2 charge of the training academy at that time, but I --  
3 I'm not sure who were -- who were the sergeants and  
4 lieutenant.

5           Q.       Was any of that information raised to  
6 you -- well, first of all, were you the colonel at  
7 that time?

8           A.       No, sir.

9           Q.       Were you at the State Troopers  
10 Association at that time?

11          A.       No, sir.

12          Q.       So -- so you were not working for the  
13 state patrol at the time that Ms. -- Trooper  
14 Splittgerber first raised concerns. Accurate?

15          A.       True.

16          Q.       And then how long after she first raised  
17 concerns did you return as the superintendent of the  
18 patrol?

19                   MR. CREAGER: If you know.

20          A.       I don't know for sure. I'd have to look.  
21 I don't know.

22          Q.       (By Mr. White) And how long after you  
23 became colonel of the state patrol did you learn of  
24 Trooper Splittgerber's concerns?

25          A.       A year and a half.

1           Q.     At any time were you advised that Trooper  
2     Splittgerber restated her concerns because she feared  
3     other female candidates would be subject to the same  
4     examination by Dr. Haudrich or others employed by the  
5     state patrol?

6           A.     She told me that.

7           Q.     Okay. So she said at that point she  
8     wanted to prohibit -- or to stop examinations of this  
9     type unless they were absolutely necessary, or words  
10    to that effect?

11          A.     Yes.

12          Q.     And did another class of female troopers  
13    go forward subject to the same type of examinations  
14    that were given to Trooper Splittgerber, to your  
15    knowledge?

16          A.     Another class came through. I can only  
17    assume that they had the same examination.

18          Q.     Did you ever ask people to investigate  
19    whether Dr. Haudrich's examinations were consistent  
20    with the examinations performed by other physicians  
21    who were engaged to physically examine potential  
22    female troopers?

23          A.     Yes.

24          Q.     And what did you discover?

25          A.     I gave that assignment to legal counsel,

1 Wendy Wussow, and she reported back to me that it was  
2 consistent. It was an accepted medical practice.

3 Q. Okay. Does that mean that all the  
4 doctors did the same thing --

5 A. I don't --

6 Q. -- or did you understand --

7 A. I do not know.

8 Q. Now, counsel, Ms. Wussow, also wrote a  
9 letter saying that the examination of the external  
10 parts of the female anatomy were necessary to -- to  
11 determine whether hernias existed. Do you recall  
12 that?

13 A. Yes.

14 Q. Have you received any information since  
15 that time that that's simply nonsense? That's not  
16 why those examinations, if there is any real reason  
17 for them, were conducted?

18 MR. ERNST: Object to the form.

19 A. Yes.

20 Q. (By Mr. White) Okay. Why would attorney  
21 Wussow tell Trooper Splittgerber that the exposure of  
22 her genitalia and anus was required to detect if  
23 there's a hernia when that's simply not true?

24 MR. CREAGER: Object to the form.

25 Q. (By Mr. White) Why was Splittgerber so

1       advised?

2                   MS. FORCH: Form and foundation.

3                   MR. ERNST: Form and foundation.

4                   MR. CREAGER: Yeah, everybody will be on  
5       that one. And you can answer, if you know.

6           Q.       (By Mr. White) Did it as the colonel  
7       cause you any concern to find out that one of your  
8       troopers was told the reason for a very invasive  
9       personal examination, the reason given was totally  
10      false? Did that concern you?

11                  MR. ERNST: Object to the form.

12                  MS. FORCH: Object to the form of the  
13      question.

14                  MR. CREAGER: Join the objection.

15           A.       I was not superintendent when I learned  
16      of that.

17           Q.       (By Mr. White) Okay. So you didn't know  
18      at the time that attorney Wussow had told Trooper  
19      Splittgerber it was to check for hernias? Is that  
20      accurate?

21           A.       No. I knew that. I saw the letter.

22           Q.       Okay. So you were superintendent at the  
23      time the letter went out; is that correct?

24           A.       That's correct.

25           Q.       But you didn't know that information was

1 false?

2 MR. ERNST: Object to the form.

3 MS. FORCH: Form.

4 Q. (By Mr. White) At that time?

5 A. True.

6 Q. Okay. When did you learn that that was  
7 not a legitimate reason to perform the examination of  
8 the types performed by Dr. Haudrich?

9 MR. ERNST: Object to the form.

10 A. I think you're placing words in my mouth  
11 now. I only learned that there was -- that -- I  
12 learned through the last meeting with my legal  
13 counsel that --

14 Q. (By Mr. White) Don't talk to me about  
15 that, then. We'll stop right there.

16 A. Okay.

17 Q. Okay. We'll stop. Were you aware while  
18 you were still colonel that the reason provided by  
19 Ms. Wussow for the examination performed on Trooper  
20 Splittgerber was false, not true? Did you learn that  
21 while you were still a colonel?

22 A. No.

23 Q. Okay. So it was only after you left the  
24 employ of the state patrol; correct?

25 A. True.

1           Q.     Did you at some point in time ask out  
2     loud in front of others, "Why are we doing this? Do  
3     we have to know if they have weird looking vaginas?"  
4     or words to that effect? Did you ever say that?

5           A.     No. I don't recall that.

6           Q.     And if others recall you saying that?

7           A.     I don't recall saying that.

8           Q.     Okay. Now, the form you said -- or you  
9     had repeatedly referred to some authority that said  
10    this is the form -- these are the exams we need and  
11    the kinds of forms we need. Who was that?

12          A.     Say it again?

13          Q.     Peace officers association or something?

14          A.     Oh, Police Standards Advisory Council  
15    that sets the standard -- physical standards for all  
16    police officers in the state of Nebraska.

17          Q.     Okay. And that form is compliant with  
18    that; correct?

19          A.     Yes.

20          Q.     Now, one of the concerns expressed is  
21    whether or not the candidate has hemorrhoids. Were  
22    you aware of that?

23          A.     Yes.

24          Q.     Were you aware that in Trooper  
25    Splittgerber's case, no history was asked, "Have you

1 ever had a problem with bowel movements, itching,  
2 pain in your anus?" No question of any history?

3 A. No.

4 Q. Another one was urinary tract infections,  
5 is what the form says. It doesn't say anything about  
6 sexually transmitted diseases or anything. It just  
7 says urinary tract. Were you aware that no history  
8 was asked --

9 A. No.

10 Q. You have to let me finish.

11 A. I'm sorry.

12 Q. -- of Trooper Splittgerber about whether  
13 she had had a history of painful urination or other  
14 symptoms of a urinary tract infection?

15 A. No.

16 Q. Were you aware that Trooper Splittgerber  
17 at no time during the examination was told for the  
18 purpose of why she was required to expose herself in  
19 these ways?

20 A. No.

21 Q. Once you became more aware -- or became  
22 aware of Trooper Splittgerber's concerns, other than  
23 delegating the matter to Ms. Wussow and -- I forget  
24 who the other one was?

25 A. HR director, Jerry Lee Jensen.

1 Q. Okay. Mr. Jensen?

2 A. It's Mrs. Jensen.

3 Q. Mrs. Jensen. Did you take any other  
4 steps?

5 A. No.

6 Q. So is there any part of your interaction  
7 with regard to Trooper Splittgerber and her complaint  
8 about these examinations that we haven't discussed?  
9 Do you have any other interactions, actions taken,  
10 anything like that, other than the information we've  
11 discussed so far? Any further involvement?

12 A. Yes.

13 Q. Okay. And what was that?

14 A. Once -- once I -- once I learned -- once  
15 reports came back to me what the examination  
16 procedure, whatever it's called, was for and that it  
17 was complying with PSAC requirements, I asked if  
18 there were any other way to perform the same  
19 procedure with -- or with a personal physician,  
20 either male or female. For either male or female  
21 candidates.

22 Q. All right. And was there a change after  
23 Mrs. Splittgerber's complaints in who would perform  
24 such examinations?

25 A. We just made provisions -- excuse me.



1 The state patrol made provisions for a personal  
2 physician to perform the same -- look for the same  
3 qualifications, examination, whatever the correct  
4 term is.

5 Q. Okay. So --

6 A. Within six months of acceptance to the  
7 academy.

8 Q. So at that point if it had been in  
9 effect, Trooper Splittgerber could have gone to her  
10 personal gynecologist or whoever to have fill out  
11 those forms?

12 A. If it had been in effect, that's true.

13 Q. All right. But Trooper Splittgerber had  
14 no choice about who to use when she went through the  
15 examination; correct?

16 MS. FORCH: Foundation.

17 A. True.

18 Q. (By Mr. White) Now, the forms don't say  
19 to the doctor how you should examine this patient for  
20 hemorrhoids; correct?

21 A. True.

22 MR. CREAGER: If you know.

23 Q. (By Mr. White) You know, the forms don't  
24 tell the physician you have to have them display  
25 their anus, it just says you have to rule out

1 hemorrhoids; correct?

2 A. That statement is true.

3 Q. And the same is, the form doesn't say you  
4 have to examine the vulva, labia, and parts of the  
5 vagina in order to fill this out, it just says you  
6 have to rule out urinary tract infections?

7 MR. CREAGER: If you know.

8 A. I -- I don't know the answer to that.

9 Q. (By Mr. White) Okay. So you're not  
10 familiar enough with what the form says? I mean, you  
11 can go look at the form if you want, and if you can  
12 find in the form where it says the doctor has to  
13 personally inspect the female's labia and vagina,  
14 because I don't think it's there, but you go ahead.

15 A. I don't think anywhere in the form it  
16 tells a physician, whoever that is, what exact  
17 procedures, examination, whatever, to perform or use.

18 Q. Now, was Dr. Haudrich the only physician  
19 actually performing these examinations when Trooper  
20 Splittgerber was a candidate?

21 A. I don't know.

22 Q. Was Concentra the only healthcare  
23 provider who the state patrol was using to provide  
24 these -- or to perform these examinations when  
25 Trooper Splittgerber was a candidate?

1           A.       I don't know that either.

2                   MR. WHITE: Can we take a break for a  
3 minute? We're off the record.

4                           (At this time a brief recess was  
5 taken.)

6                   MR. WHITE: Bob, we don't have any other  
7 questions.

8                   MR. CREAGER: I'm going to go last, so  
9 anybody want to jump in here?

10                  MR. ERNST: Jessica?

11                  MS. FORCH: I have no questions.

12                  MR. ERNST: I just have a couple.

13                           CROSS-EXAMINATION

14 BY MR. ERNST:

15           Q.       Have you ever spoke to Dr. Haudrich  
16 before today or met him before today?

17           A.       No. No, sir.

18           Q.       And during your first -- I should ask,  
19 did you have one meeting with Brienne or more than  
20 one?

21           A.       One face to face.

22           Q.       Okay. And during that first meeting with  
23 her, did she bring with her the physical examination  
24 form from her examination by Dr. Haudrich?

25           A.       No, sir.

1           Q.       So she didn't point anything out to you  
2 during that meeting?

3           A.       No, sir.

4                   MR. ERNST: That's all I have. Thank  
5 you.

6                               CROSS-EXAMINATION

7 BY MR. CREAGER:

8           Q.       I just have a few questions, Colonel.  
9 And what I'd like you to do is try to lay a timeline  
10 over your testimony just to make sure that for now  
11 and for future reference that -- that this testimony  
12 subsequently used in the case, that things are in  
13 context. Okay?

14                   The record evidence in this case shows  
15 that the examination that the plaintiff complains of  
16 occurred on September 11th, 2014. You have no reason  
17 to dispute that, do you?

18           A.       No, sir.

19           Q.       And were you associated with the state  
20 patrol or not on the date the examination took place?

21           A.       I was not.

22           Q.       Okay. And you testified that you later  
23 were appointed to the role of superintendent. Do you  
24 remember the precise date you were sworn in to take  
25 command?

1           A.       It was March of '15.

2           Q.       So if we use March of 2015 as sort of  
3 ground zero for your involvement in your capacity as  
4 superintendent, how long after March of 2015 was it  
5 that you became aware that Trooper Splittgerber had  
6 any complaints about her September 11th, 2014,  
7 examination?

8           A.       February of last year. So it would be  
9 February of '17. Yeah.

10          Q.       And I believe your testimony was that she  
11 either asked for or somehow scheduled a face-to-face  
12 meeting with you?

13          A.       Correct.

14          Q.       And do you remember the date of that  
15 face-to-face meeting or the approximate time?

16          A.       Well, it was in February of '17. I can't  
17 remember the exact date. In the afternoon at the --  
18 late -- late morning or early afternoon at the  
19 training academy in Grand Island.

20          Q.       Okay. And do you recall how that meeting  
21 was set up?

22          A.       Trooper Splittgerber at the time asked  
23 for a one-on-one meeting with myself. I did not --  
24 I -- the subject of the meeting was unknown at the  
25 time. She went through the proper chain of command,

1 the proper channels. It was scheduled. Since I was  
2 at the training academy that day, I met her at the  
3 training academy.

4 Q. Okay.

5 A. She was stationed in Kearney, I believe,  
6 at the time.

7 Q. Based upon your best recollection --

8 A. Right.

9 Q. -- sometime late in the day on --

10 A. Or late -- late morning or very, very  
11 early afternoon. One of the two.

12 Q. And this was February -- what day in  
13 February, if you recall?

14 A. I don't -- I have to look at the calendar  
15 to see.

16 Q. I think there's other evidence that  
17 perhaps can nail that down. But at least at this  
18 meeting you're describing, was that the first time  
19 you heard anything about Trooper Splittgerber's  
20 complaint?

21 A. Yes, sir.

22 Q. So you hadn't become aware through the  
23 chain of command or from your prior -- the prior  
24 superintendent or anybody on your staff that there  
25 was a complaint or there was a complaint being

1 investigated or anything like that?

2 A. No, sir.

3 Q. What do you recall Trooper Splittgerber  
4 to have actually stated to you in her complaint?

5 A. She -- this is going to be rough. I  
6 cannot --

7 Q. To the best of your recollection. And,  
8 honestly, if you don't know, please say you don't  
9 know.

10 A. Right.

11 Q. I don't want you to speculate or  
12 conjecture on that.

13 A. She just told me she had a concern with  
14 the examination that she was required to submit to  
15 as -- as a candidate for the state patrol. And then  
16 she described her recollection of the examination.

17 Q. So see if I have this right. That at the  
18 time in February of 2017 when Trooper Splittgerber  
19 met with you, she had obtained the assignment and was  
20 sworn in as a trooper in the Nebraska State Patrol?

21 A. That's correct.

22 Q. Aside from complaining about the physical  
23 she took a year and a half ago, did she have any  
24 complaints that presently, that is at the time she  
25 met with you, that she was being harassed or

1 discriminated against or felt that her job status as  
2 a trooper was being affected by anything related to  
3 her complaint?

4 MR. WHITE: Objection. Leading. Calls  
5 for legal conclusions.

6 Q. (By Mr. Creager) You can answer.

7 MR. WHITE: Unless your counsel has  
8 advised you of law school class on employment law, we  
9 object.

10 MR. CREAGER: You can object all you  
11 want, Counsel. His word is "complaint." I'm not  
12 talking about an EEOC complaint. I'm talking about  
13 did she complain about any of those things.

14 MR. WHITE: Harassed, hostile are legal  
15 terms and legally loaded, Counsel.

16 MR. CREAGER: That's fine. I can ask if  
17 she --

18 MR. WHITE: Objection. Foundation.

19 MR. CREAGER: So noted.

20 Q. (By Mr. Creager) Answer the question.

21 A. No complaints.

22 Q. Of any kind?

23 A. Of any kind.

24 Q. All right. So the only complaint that  
25 she had -- and I use "complaint" in the common



1 vernacular -- was about the physical?

2 A. Correct.

3 Q. In response to her complaint, did you  
4 take some action to investigate the status of that  
5 complaint?

6 A. I did.

7 Q. What did you learn about the nature of  
8 what the state patrol had done up to that point in  
9 time in response to her complaint?

10 A. I -- I was informed that she did call --  
11 call the examination into question when she was at  
12 the training academy. That the -- the complaint went  
13 up the chain of command through Captain Williams to  
14 the administrative services major over to the  
15 superintendent's office. The superintendent's office  
16 asked human resources to look into it.

17 They contacted Dr. Haudrich's office,  
18 received an explanation of -- of what the examination  
19 was for, and that answer was then transmitted back  
20 down the chain of command to, at that time, candidate  
21 Splittgerber. She had a meeting -- my recollection,  
22 what I was told -- with then Captain Williams. And  
23 it appeared that the matter, all the concerns, were  
24 addressed and that was the last that any in the staff  
25 at the state patrol had heard about it.

1           Q.       Now, this would have been sometime after  
2       February of 2017 that you would have learned what you  
3       just told us?

4           A.       That was the same day. The same day as  
5       the -- as the complaint that she -- when she gave --  
6       when she voiced her concern to me, I called the  
7       meeting of Lieutenant Colonel Schwarten,  
8       Administrative Services Major Russell Stanczyk, Wendy  
9       Wussow -- legal counsel Wendy Wussow -- and HR  
10      administrator Jerry Lee Jensen.

11          Q.       Okay. If you recall, did anybody produce  
12      for you in your capacity as colonel and  
13      superintendent at the Nebraska State Patrol either a  
14      written report or any findings that would establish  
15      that the state patrol had taken some official action  
16      in response to her complaint?

17          A.       No.

18          Q.       Did you ever see any formal file, written  
19      memorandums of an investigation or anything like  
20      that, while you were superintendent?

21          A.       Of the original com- --

22          Q.       Of the original complaint.

23          A.       No.

24          Q.       All right. Did you get back to Trooper  
25      Splittgerber in response to her inquiry?

1 A. Yes.

2 Q. And when was that?

3 A. Approximately 30 days later.

4 Approximately.

5 Q. And why -- what was going on at the time  
6 if you can recall that precipitated the response?

7 A. I had -- I had instructed legal counsel  
8 and Jerry Lee Jensen, HR director, to contact the --  
9 the medical facility and just find out what was going  
10 on, what it was for, so I could at least have some  
11 knowledge and get -- and address Trooper  
12 Splittgerber's concerns. At that time, the first  
13 time I contacted her again was to let her know that  
14 it had not got lost and I was still looking into it  
15 and I did not take her concern lightly.

16 Q. Now, this concern that you were  
17 addressing was the concern expressed to her -- to you  
18 in a personal meeting in February of 2017; correct?

19 A. That's true.

20 Q. All right. And she wasn't, to your  
21 knowledge, facing any additional physical  
22 examinations nor required to take any further medical  
23 examinations; is that correct?

24 A. That's correct.

25 Q. So she was already a trooper at that

1 time?

2 A. Yes, sir.

3 Q. And I believe during direct examination,  
4 the question posed to you, was she concerned about  
5 the next class coming in and females that may be  
6 subject to what she described as an improper  
7 procedure?

8 A. Yes.

9 Q. Were there other things going on at the  
10 state patrol at that time regarding investigations  
11 that were being conducted, administrative  
12 disciplinary matters, kind of put this investigation  
13 of the Trooper Splittgerber incident with other  
14 things that were going on at the time at the state  
15 patrol affecting you?

16 A. Yes. There was always something going  
17 on.

18 Q. How long then after you told  
19 Ms. Splittgerber about 30 days or so later that you  
20 hadn't forgotten about it and you were working on it  
21 that you heard some other response to the  
22 investigation? Poor question. I'll strike it.

23 What was the next thing that you remember  
24 happening?

25 A. Around the 1st of May, I wanted to

1 contact Trooper Splittgerber by phone and give her an  
2 update on where we were at, what was occurring with  
3 it. And I did.

4 Q. Okay. And -- all right. Do you recall  
5 where and when that conversation took place?

6 A. I phoned her from, I believe, my  
7 cellphone, my -- the patrol-issued cellphone in my  
8 office at that time.

9 Q. Can you recall the conversation, what was  
10 said by you and what was said by Trooper Splittgerber  
11 during that conversation?

12 A. Yes. I wanted to -- I wanted to talk to  
13 her, but I was advised by legal counsel, Wendy  
14 Wussow, that I should not talk to her if she was  
15 engaging in a lawsuit either against the -- no. Just  
16 against the agency. Agency at the time. There was  
17 rumor that she had filed a lawsuit. Whether that was  
18 an EEOC, I didn't -- I did not know at the time. It  
19 was unknown.

20 Q. Just to make sure that we have the  
21 timeline correct, in this period after the 30 days  
22 when you told her that you hadn't forgotten about it,  
23 had you also been in contact with people of the state  
24 patrol -- Wendy Wussow, Captain Stanczyk and  
25 others -- about the continuing investigation?

1 A. Yes.

2 Q. So that was an ongoing thing?

3 A. Yes, sir.

4 Q. But the question that I put out there  
5 was, what do you remember next about contacting her,  
6 and you said there was a cellphone call; right?

7 A. Correct.

8 Q. And do I understand you to say that  
9 before you made that call, you had been instructed by  
10 legal counsel that if she had a lawyer, you shouldn't  
11 talk to her?

12 A. Correct.

13 Q. All right. So why'd you call her?

14 A. I felt it was a matter of -- my  
15 responsibility as a superintendent. A trooper had  
16 raised a concern, a question. I did not want to  
17 ignore it. I wanted to get back with one of my --  
18 one of my troopers and let them know that this had  
19 not got lost in the shuffle and that I was concerned.  
20 I mean, I took -- I did not know -- I'll just leave  
21 it at that.

22 Q. So at least -- I'm trying to establish  
23 your state of mind at the time. You had some  
24 indication from counsel that maybe you shouldn't talk  
25 to her, but maybe she didn't file, maybe she did

1 file, maybe she had an attorney, maybe she didn't  
2 have an attorney. You didn't know the answer to any  
3 of those questions?

4 A. Correct.

5 Q. All right. So you called her, and what  
6 was the conversation, if you can recall?

7 A. I asked -- I asked Wendy Wussow, my  
8 attorney, legal counsel, that if I called her, if it  
9 would be okay to just ask her if she had an attorney  
10 representing her in this. And if she did, that I  
11 would just let her know that I couldn't talk to her,  
12 we'd have to go through attorney to attorney. But if  
13 she didn't, that I would be happy to discuss with  
14 her, you know, where we were at and that it -- we  
15 were still looking into it, it just hadn't gotten  
16 lost.

17 Q. So what did she say about that?

18 A. She told me on the phone that she did not  
19 have an attorney yet, but she was contemplating  
20 getting one.

21 Q. So based on that answer, then did you  
22 have a further conversation with her about what the  
23 status was of the investigation?

24 A. Yes.

25 Q. All right. And what did you inform her?

1           A.       I just in- -- I informed her that we were  
2       going to maybe develop some different protocols and  
3       allow for some different ways to accomplish the same  
4       mission. I don't -- and I did not -- I don't  
5       remember being very specific with her on that.

6           Q.       All right. So did that conversation  
7       result in any conclusion, or was it just an exchange  
8       of information?

9           A.       She just -- we concluded the  
10      conversation. She -- she told me she appreciated the  
11      call and she appreciated that I was paying attention  
12      to her.

13          Q.       Did you have any further conversations or  
14      communications or correspondence of any kind with  
15      Trooper Splittgerber after that phone call?

16          A.       No. I do not believe so, no.

17          Q.       Now, what's the next thing you remember  
18      about the investigation or being involved in -- in  
19      the investigation?

20          A.       I -- I'd have to look at the timeline,  
21      but I think it was maybe a week or a week and a half  
22      later that the agency received notification that she  
23      had filed an EEOC --

24          Q.       Okay.

25          A.       -- complaint.



1           Q.       And, now, you testified earlier that this  
2       wasn't the only thing going on at the state patrol.  
3       There were numerous other matters pending at the  
4       time. Were you also attending to those matters?

5           A.       Yes.

6           Q.       And from that last conversation in which  
7       you learned about the EEOC complaint, did you have  
8       any further involvement in the investigation?

9           A.       No.

10          Q.       And you eventually were dismissed as  
11       superintendent by the governor; is that correct?

12          A.       That's correct.

13          Q.       And when did that occur?

14          A.       June 30th.

15          Q.       Okay. And then after that, complaints  
16       and lawsuits, and you've learned a lot about the case  
17       through discovery and things of that nature since  
18       then; correct?

19          A.       That's correct.

20          Q.       What I want to do is circle back and get  
21       to this alphabet soup agency and try to find out a  
22       little bit about what you can tell us about the role  
23       the state patrol has, if any, in the formulation of  
24       the guidelines for the medical examination. Okay?  
25       You and counsel immediately started exchanging

1 information about some sort of agency that sets the  
2 standards for something related to law enforcement?

3 A. Yes.

4 Q. And -- and what is that agency?

5 A. That's the Police Standards Advisory  
6 Council, which is kind of a subset of the Crime  
7 Commission.

8 Q. So these -- what's your -- what's your  
9 knowledge about the nature of that commission?

10 A. The commission -- in this instance, the  
11 commission just sets the standards, sets the physical  
12 standards, for all certified police -- to become a  
13 certified police officer in the state of Nebraska.

14 Q. To your knowledge, does that commission  
15 have anything to do with the Nebraska State Patrol as  
16 an administrative agency of the state of Nebraska?

17 A. No.

18 Q. Do you have -- as superintendent of the  
19 Nebraska State Patrol, do you, to your knowledge,  
20 have any jurisdiction over that agen- -- over that  
21 commission?

22 A. No, sir.

23 Q. Can you tell it what to do?

24 A. No.

25 Q. Could you in your capacity as

1 superintendent of the Nebraska State Patrol change  
2 the guidelines set forth on the medical examination  
3 form?

4 A. No.

5 Q. Could you make recommendations for  
6 changes?

7 A. Yes.

8 Q. Did you make any recommendations for  
9 changes in either the procedure or the -- the manner  
10 in which the examinations were conducted?

11 A. No. Not to the Crime Commission or  
12 Police Standards Advisory board.

13 Q. So when you testified that you  
14 recommended a change be in who conducted the  
15 examination, did you think that recommendation was  
16 consistent with your powers and duties as  
17 superintendent?

18 A. Yes.

19 Q. Just to clarify some general allegations,  
20 Colonel, were you engaged in any agreement with any  
21 other investigators or members of the state patrol to  
22 cover up Trooper Splittgerber's complaints?

23 A. No.

24 Q. Were you engaged in any agreement with  
25 any others in the Nebraska State Patrol or with any

1 other party to cover up sexual assaults of female  
2 candidates who had made applications for the -- to be  
3 sworn officers to the Nebraska State Patrol?

4 A. No.

5 Q. Do you have any medical training?

6 A. None.

7 Q. Did you have any information that  
8 resulted from the investigation that suggested to you  
9 as superintendent of the Nebraska State Patrol that  
10 there was anything improper about the manner or  
11 method in which the state patrol conducted physical  
12 examinations of female candidates?

13 MR. WHITE: Objection. Form, foundation.  
14 The state patrol didn't conduct them.

15 A. No.

16 MR. CREAGER: That is correct.

17 MR. WHITE: They did require them.

18 MR. CREAGER: That's both correct. But  
19 the lawsuit is against my client because he was  
20 superintendent of the state patrol. So we'll ask it  
21 both ways.

22 Q. (By Mr. Creager) Did you have any reason  
23 to believe that the state Crime Commission and the  
24 procedures that they outline for the conducting of  
25 medical examinations for female troopers at the

1 academy were medically unnecessary?

2 A. No.

3 Q. Based upon what you knew at the time,  
4 starting with the complaint by Trooper Splittgerber  
5 in February '17, did you fully and properly  
6 investigate her allegations to the best of your  
7 knowledge and belief?

8 A. Yes.

9 Q. When you were relieved of command, do you  
10 know what the status of the Splittgerber  
11 investigation was at that time? I just want to --  
12 I'm just trying to give you a chance between the time  
13 of the last communication and then the time that you  
14 were relieved of command, is there anything else you  
15 learned about the investigation that you haven't told  
16 us about before you left command?

17 A. No.

18 MR. CREAGER: I have no further  
19 questions. Thank you, sir.

20 MR. WHITE: I have a couple of  
21 follow-ups.

22 REDIRECT EXAMINATION

23 BY MR. WHITE:

24 Q. You mentioned a timeline. Did you  
25 prepare a timeline? Did you prepare a timeline --

1 A. Did I --

2 Q. -- of the events in this case? You  
3 mentioned, "I'd have to review the timeline."

4 A. Well, no. I'd have to look at -- I'd  
5 have to look at the records of the state patrol.

6 Q. Okay. Did you review a timeline in order  
7 to come in and testify today?

8 A. Just -- just this. What you have.

9 Q. And that document would be the petition  
10 or the --

11 A. Motion to dismiss and --

12 Q. All right.

13 A. -- the complaint for -- and demand for  
14 jury.

15 Q. So just legal pleadings, is all you  
16 reviewed?

17 A. Yeah.

18 Q. Now, you were -- are a trained criminal  
19 investigator; correct?

20 A. Yes.

21 Q. And you spent years investigating crimes;  
22 correct?

23 A. Let's back up. The -- investigating  
24 crimes is part of the duties of the state patrol.

25 Q. Understood.

1           A.       I was never an investigator. I was  
2 always in the uniformed division. So specific  
3 training for specific crimes, no.

4           Q.       All right. As a part of the troopers,  
5 did you ever interview people who -- to see if they  
6 were involved in any illegal act?

7           A.       Yes.

8           Q.       And when you would ask them a question  
9 and you would find out subsequently they had lied to  
10 you about an important fact, did that change the way  
11 you looked at that conversation?

12          A.       Yes.

13          Q.       So when false information is given to a  
14 law enforcement officer by -- on an investigation, is  
15 that considered a red flag?

16          A.       Yes.

17          Q.       Now, you talked personally to Trooper  
18 Splittgerber in March; correct?

19          A.       I believe it was February.

20          Q.       February 2017. And then you had a  
21 follow-up on May 1st, 2017, where you called on the  
22 phone and she indicated she might be filing an EEOC  
23 complaint; correct? Or was contemplating it?

24          A.       Yes.

25          Q.       Now, were you aware that in between those

1 two times, on March 31, 2017, Trooper Splittgerber  
2 received an e-mail saying the reason for this  
3 invasive examination was to look for a hernia?

4 MR. ERNST: Object to the form.

5 Q. (By Mr. White) Were you aware of that  
6 timing?

7 MR. CREAGER: Asked and answered, too.

8 MR. WHITE: Just because it hurts doesn't  
9 mean I don't get to talk about it.

10 MR. CREAGER: There's nothing to hurt  
11 there, my friend.

12 Q. (By Mr. White) Well, I'm asking you --

13 A. Was I aware of what?

14 Q. Okay. First you talked to Trooper  
15 Splittgerber personally?

16 A. I think you asked me two questions there.

17 Q. Well, let me rephrase them.

18 A. Okay.

19 Q. Okay. And we'll play it politely.  
20 Splittgerber talks to you personally; correct?

21 A. Yes, sir.

22 Q. All right. And that's in February;  
23 correct?

24 A. Yes, sir.

25 Q. Of 2017?



1 A. Yes, sir.

2 Q. All right. And you're the colonel in  
3 charge at that time; correct?

4 A. Yes, sir.

5 Q. Then you talk to her again on the phone;  
6 correct?

7 A. Yes, sir.

8 Q. In May; correct?

9 A. Yes, sir.

10 Q. Were you aware that in between those two  
11 conversations, Trooper Splittgerber received an  
12 e-mail from attorney Wussow saying the explanation  
13 for the nature of the exam you received was to look  
14 for a hernia?

15 A. Yes.

16 Q. And you now know that to be a false --  
17 that that is false, that wasn't allegedly even the  
18 reason for the exam?

19 MR. CREAGER: I'm going to object. Your  
20 timeline is wrong, Counsel.

21 MR. WHITE: No. It's right, Counsel.

22 MR. CREAGER: It's wrong, Counsel. And  
23 you're confusing the witness. He's already answered  
24 this question that he didn't know it at the time,  
25 that he learned about it through discovery.

1 MR. WHITE: Counsel, next time we go to  
2 the judge.

3 MR. CREAGER: All right. That's fine.  
4 I'm all for it.

5 Q. (By Mr. White) Simple question. Do you  
6 know when you spoke to Splittgerber personally? What  
7 time on -- the personal interview about this, when  
8 was it?

9 A. Okay. Do I know that the -- do I know --

10 Q. No, no. Just the question. Are you  
11 aware what time generally you interviewed Trooper  
12 Splittgerber personally? Yes or no.

13 A. Yes.

14 Q. When was that?

15 A. February.

16 Q. Are you aware of what time you spoke to  
17 Trooper Splittgerber on the cellphone? Yes or no.

18 A. Yes.

19 Q. And when was that?

20 A. May. Same year.

21 Q. Are you aware of when attorney Wussow  
22 sent an e-mail to Splittgerber explaining -- or  
23 Splittgerber's association attorney explaining the  
24 reason for the examination?

25 A. Yes.

1 Q. And when was that?

2 A. When the e-mail was sent?

3 Q. Yes.

4 A. It -- it was in between February and May.

5 Q. Are you aware what the e-mail contained?

6 Yes or no.

7 MR. CREAGER: I'm going to object --

8 MR. WHITE: Bob, just settle down. We're  
9 doing this this way because of you --

10 MR. CREAGER: Yeah, that's right.

11 MR. WHITE: -- confusing the issue. So  
12 I'm going to make the timeline right. Now the  
13 timeline is right.

14 MR. CREAGER: I get to make my objection.

15 MR. WHITE: Then make an objection.

16 MR. CREAGER: I'll make my objection.

17 Form, foundation, assumes facts not in evidence.

18 It's inconsistent with his testimony. The question  
19 asked are you aware. Not when --

20 MR. WHITE: Now you're coaching, Bob.

21 You're not objecting.

22 MR. CREAGER: Then I'll -- then I'll send  
23 you out of the room.

24 Listen carefully to what he's saying,  
25 because the questions are not sequential. So if you

1 know, answer the questions.

2 MR. WHITE: Jesus, you ought to be  
3 ashamed.

4 Q. (By Mr. White) So as you remember it,  
5 interview with Splittgerber, letter -- or e-mail from  
6 Wussow to Splittgerber's attorney, phone call with  
7 Splittgerber; is that correct?

8 A. That's correct.

9 Q. Okay. That's the timeline. Now, were  
10 you aware at the time of your main conversation with  
11 Trooper Splittgerber that she had been told by  
12 attorney Wussow that the reason for the examination  
13 was to find out if she had a hernia?

14 A. Yes.

15 Q. Were you aware at that time that that was  
16 not accurate, that was not a legitimate reason for  
17 the examination?

18 A. No.

19 Q. When did you learn that?

20 A. I -- I think I mentioned it just a minute  
21 ago, and you said not to discuss it.

22 Q. Oh, from your attorney. I'm sorry.

23 A. Yes.

24 Q. Yes. Then we'll leave that. All right.

25 Did Trooper Splittgerber advise you why she was

1 thinking about filing an EEOC complaint in that  
2 conversation?

3 A. No.

4 Q. You'd mentioned that you had not dropped  
5 the ball; correct?

6 A. Correct.

7 Q. And at that point in time, you believed  
8 attorney Wussow's explanation for why the examination  
9 was to look for a hernia?

10 A. Yes.

11 Q. Was there any other follow-up  
12 investigation to your knowledge as to why attorney  
13 Wussow would say it was for a hernia?

14 A. Okay. I'm sorry. Say it again.

15 Q. Okay. Did you at any time while you were  
16 colonel have any follow-up investigation as to why  
17 attorney Wussow would provide information that wasn't  
18 accurate as an explanation for the nature of the  
19 examination undergone by Trooper Splittgerber?

20 A. Well, the answer to your question is no.

21 Q. Okay. Thank you.

22 A. Okay.

23 Q. And were you aware of any other  
24 complaints Splittgerber had made through the chain of  
25 command after receiving Wussow's explanation for the

1 examination that, in fact, that was not an accurate  
2 explanation?

3 A. No.

4 MR. WHITE: Those are the questions we  
5 have.

6 MR. ERNST: I have a few more.

7 RECROSS-EXAMINATION

8 BY MR. ERNST:

9 Q. I was unclear when you talked about --  
10 I'm unclear whether you made a recommendation or you  
11 simply asked if it would be possible for trooper  
12 candidates to have their own personal physician do  
13 this examination? Was that a recommendation, or did  
14 you just inquire about it?

15 A. I was asking.

16 Q. And who were you asking?

17 A. My staff.

18 Q. Okay. And did you get an answer?

19 A. Yes.

20 Q. What was the answer?

21 A. The answer was, a personal physician  
22 could accomplish the same thing if -- if it was done  
23 within six months prior to accepting -- prior to the  
24 first day of the academy.

25 Q. And then was that new procedure put into

1 play, if you know?

2 A. It was.

3 Q. Okay. So currently they can do that?

4 A. As far as I know.

5 Q. As far as you know. Okay. All right.

6 And then I had a couple questions about this meeting.  
7 I think I heard you say that the same day that you  
8 learned about the plaintiff's complaint, you had a  
9 meeting with Colonel Schwarten, Russell Stanczyk,  
10 Wendy Wussow, and Jerry Lee Jensen. Did I understand  
11 that correctly?

12 A. That's true. And I -- I know that I  
13 talked to Lieutenant Colonel Schwarten. That meeting  
14 either occurred that afternoon or the very next day.  
15 And I cannot exactly remember, but it was immediately  
16 after the meeting with Brienne.

17 Q. Okay. And why were those four particular  
18 people asked to be in the meeting?

19 A. That would be their bailiwick. The  
20 administrative services major is in charge of the  
21 training academy. They -- and when the candidates  
22 come -- when the candidates are accepted, of course  
23 they go -- that's their first chain of command, is  
24 the training academy.

25 Human resources sets up all -- or assists

1 in setting up all of the necessary procedures to get  
2 somebody into the training academy: recruiting,  
3 et cetera. And then obviously legal counsel needed  
4 to be involved

5 Q. Okay.

6 A. And the administrative services major is  
7 in charge of all of that side of the house --

8 Q. Okay.

9 A. -- with the exception of legal services.

10 Q. And I think I heard you say that it was  
11 at that meeting that somebody said that there had  
12 been a conversation with somebody from Concentra that  
13 had happened previously?

14 A. Yes.

15 Q. And who said that, do you remember?

16 A. I don't recall.

17 Q. And did they say it was a phone  
18 conversation or a meeting?

19 A. I -- I cannot say. I don't recall.

20 Q. Did anyone say who at Concentra  
21 supposedly participated in this conversation or  
22 meeting?

23 A. I cannot -- no. I do not know.

24 Q. All right. And there was never a report,  
25 you never saw an e-mail, a letter, any sort of



1 documentation that that actually happened; is that  
2 correct?

3 A. That's true.

4 Q. All right. Do you know why there was no  
5 documentation of it?

6 A. I do not.

7 Q. And this e-mail that was sent by  
8 Ms. Wussow to Gary Young, March 31, 2017, you've seen  
9 that before today; correct?

10 A. Yes, sir.

11 Q. It says, quote, According to Brenda  
12 Urbanek, the requirement for the PSAC regulation form  
13 is for a hernia check which is for both males and  
14 females, unquote.

15 Did you ever have a conversation with  
16 Brenda Urbanek about how she came to that  
17 understanding?

18 A. I did not.

19 Q. Do you know if anyone did?

20 A. I do not know.

21 Q. Okay. Have you ever talked with Wendy  
22 Wussow about that, about how Brenda Urbanek  
23 reportedly came up with hernia check as being the  
24 requirement under the PSAC regulation?

25 A. No.

1 MR. ERNST: Thank you. Those are all the  
2 questions.

3 MS. FORCH: Dave covered mine, so I'm  
4 good. No questions.

5 MR. CREAGER: Nothing further. Okay. If  
6 we're all done, I'll tell you about your right to  
7 read and sign the deposition. One of the privileges  
8 you get, if you wish to assert your right, is that  
9 after the court reporter types this all up, you can  
10 get together with her and go through the transcript  
11 for the purposes of making sure that she got down  
12 what you said correctly. And not for the purpose of  
13 changing your answers or modifying anything, but if  
14 you think you remember something differently than she  
15 put down, you can make a note of that and kind of  
16 work that out later, or you can waive that, which  
17 would allow her to transcribe, type that up, and have  
18 us use this without your actual signature.

19 It is your privilege. No one can make  
20 you read it, no one can make you sign it. It is my  
21 experience the court reporters pretty much get it  
22 right, so if you want to waive that right, that's  
23 fine with me. But you just need to let her know.

24 THE WITNESS: I'll waive.

25 (Deposition concluded at 10:12 a.m.)

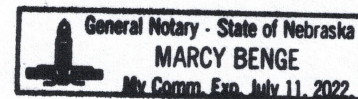
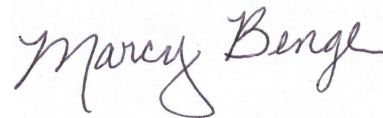
## C E R T I F I C A T E

I, Marcy Benge, RMR, General Notary Public, duly commissioned, qualified, and acting under a general notarial commission within and for the State of Nebraska, do hereby certify that:

**BRADLEY RICE**

was by me first duly sworn to tell the truth, the whole truth, and nothing but the truth; that the foregoing deposition was taken by me at the time and place herein specified and in accordance with the within stipulations; that I am not counsel, attorney, or relative of either party or otherwise interested in the event of this suit.

IN TESTIMONY WHEREOF, I have hereunto set my hand officially and attached my notarial seal at Lincoln, Nebraska, this 18th day of September, 2018.



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